

1 Chicago, Illinois 60606
for Illinois Bell Telephone Co.;

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3 APPEARANCES: (Continued)

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MR. MATTHEW L. HARVEY and
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160 North LaSalle Street, Suite C-800
8 Chicago, Illinois 60601
for Staff of the Illinois Commerce
9 Commission;

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11 Chicago, Illinois
for City of Chicago;

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13 222 West Adams Street, Suite 1500
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14 for AT&T Communications of Illinois, Inc.;

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6600 Sears Tower
22 Chicago, Illinois 60606
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1 Inc.

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3 SULLIVAN REPORTING COMPANY, by
Kathleen Maloney, CSR

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1 JUDGE MORAN: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket 98-0252,
3 98-0335, and 00-0764, all consolidated.

4 This is the Illinois Bell Telephone
5 Company's application for review of an alternative
6 regulation plan and a petition to rebalance Illinois
7 Bell Telephone Company's carrier access and network
8 access line rates.

9 It is also a complaint by the Citizens
10 Utility Board and the People of the State of
11 Illinois versus Illinois Bell Telephone Company for
12 a reduction in Illinois Bell Telephone Company's
13 rates and other relief.

14 This case -- or this docket, the
15 Commission's final order in this docket went up on
16 appeal to the Illinois Appellate Court, The Third
17 District.

18 The Court has entered an opinion in
19 No. 03-0207, which is consolidated with 03-0515.

20 The Appellate Court's opinion --

21 MR. HARVEY: Is dated September 17th.

22 JUDGE MORAN: Thank you.

1 Considered the issues raised by SBCI and
2 affirms in part, reverses in part and has remanded
3 the cause with directions.

4 And we are here on the basis of that
5 remand.

6 Might I have the appearances for the
7 record please.

8 MR. HARVEY: Appearing for the staff of the
9 Illinois Commerce Commission, Matthew L. Harvey and
10 Sean R. Brady, 160 North LaSalle Street, Suite
11 C-800, Chicago, Illinois 60601-3104.

12 MS. NORRIS: On behalf of McCleod USA
13 Telecommunications Services, Inc., Samantha C.
14 Norris, Schiff, Harden, LLP, 6600 Sears Tower,
15 Chicago, Illinois 60606.

16 MR. TRABARIS: Appearing on behalf of AT&T
17 Communications of Illinois, Inc., Douglas Trabaris,
18 222 West Adams Street, Suite 1500, Chicago, Illinois
19 60606.

20 MS. SUNDERLAND: On behalf of Illinois Bell
21 Telephone Company, Louise A. Sunderland, 225 West
22 Randolph Street, Chicago, Illinois 60606.

1 JUDGE MORAN: Are you entering an appearance?

2 A VOICE: I am just observing.

3 MS. SUNDERLAND: He's observing.

4 JUDGE MORAN: That's fine.

5 MS. SATTER: Susan L. Satter, appearing on behalf
6 of the People of the State of Illinois, 100 West
7 Randolph Street, Chicago, Illinois 60601. My
8 telephone number is Area Code 312-814-1104.

9 MS. LUSSON: Karen L. Lusson, L-u-s-s-o-n, on
10 behalf of the Citizens Utility Board, 349 South
11 Kensington Avenue, LaGrange, Illinois 60525, Phone
12 No. 708-579-1529.

13 MR. GOLDENBERG: Allan Goldenberg, assistant
14 state's attorney, on behalf of Cook County State's
15 Attorney's Office, 69 West Washington, Suite 3130,
16 Chicago, Illinois 60602.

17 MR. PACE: On behalf of City of Chicago, Jack
18 Pace, senior counsel, 30 North LaSalle Street, Suite
19 900, Chicago, Illinois 60602. Phone No.
20 312-744-6997.

21 JUDGE MORAN: Let the record reflect that those
22 are all the appearances here today.

1 Well, at the outset, let me apologize to
2 the parties for the lateness of this first status on
3 the case.

4 I incorrectly assumed that, when the
5 Court entered its opinion, it would go to the
6 Commission, the Commission would then direct or
7 initiate some kind of process through me.

8 Unbeknownst to me, it just comes directly
9 to me.

10 So while I was waiting for an order,
11 there is no such order, and I apologize if that has
12 put this case back.

13 Now, have -- I assume that the parties
14 have all read the opinion and probably several
15 times, and are we ready to discuss it?

16 MS. SUNDERLAND: Sure.

17 MR. TRABARIS: Yes, your Honor.

18 JUDGE MORAN: Okay. Who would like to start?

19 MS. SUNDERLAND: Shall I start?

20 JUDGE MORAN: Sure.

21 MS. SUNDERLAND: Well, there were basically two
22 issues that went up on appeal, one having to do with

1 the wholesale remedy plan and the other having to do
2 with the infrastructure investment obligation that
3 was imposed by the Commission's final order in this
4 proceeding.

5 The Court reversed both of those,
6 although on different grounds.

7 The wholesale remedy plan was reversed
8 basically on BIE, B-I-E, grounds to the extent that
9 it would have applied to any carrier that didn't
10 have an interconnection -- that didn't have an
11 interconnection agreement.

12 The infrastructure obligation was
13 reversed on the grounds that there was no evidence
14 to support it.

15 So because the Commission's order was
16 affirmed in part and reversed in part, the Appellate
17 Court remanded the case to the Commission with
18 directions, and the directions are, and I am quoting
19 from the order, "to enter an order consistent with
20 this opinion."

21 I think the situation is probably a
22 little different with respect to each of these two

1 appellate issues. The wholesale remedy plan is now
2 moot.

3 It was superceded in the 271 docket by
4 the 271 plan so that I don't know that -- other than
5 removing the requirement, I don't know that there is
6 anything that really needs to be done about that.

7 On the infrastructure obligation, we
8 understand the Court to be pretty clear that all
9 that there is to be done is to remove that and the
10 associated discussion and any ordering clauses from
11 the order that would impose that \$600 million per
12 year obligation on the company.

13 So as SBC Illinois sees it, all that
14 remains to be done is for the Commission to issue an
15 amendatory order consistent with this opinion.

16 JUDGE MORAN: Okay.

17 MR. TRABARIS: Your Honor, just to add a couple
18 of things on top of what SBC has stated, AT&T is not
19 taking any position whatsoever on the infrastructure
20 spending portion of the order.

21 We are only taking a position on the
22 remedy plan portion.

1 And with that, our position is pretty
2 close to SBC's.

3 It's our position that the Appellate
4 Court affirmed the Commission's decision applying
5 the remedy plan as a part of SBC's alternative
6 regulation plan but reversed only on the narrow
7 grounds where, as counsel for SBC corrected stated,
8 the particular competitive local exchange carrier
9 did not have an interconnection agreement.

10 So we think it's more of an affirmation
11 than a reversal.

12 But with that said, we think that there's
13 nothing to proceed on with regard to the remedy plan
14 either.

15 JUDGE MORAN: Okay.

16 MR. TRABARIS: So we would recommend against
17 having any kind of proceeding prior to issuance of a
18 proposed order.

19 JUDGE MORAN: Okay.

20 MR. HARVEY: I think perhaps from the staff's
21 perspective, our take on the pure legal issues is
22 approximately similar to SBC's and AT&T's as stated.

1 That having been said, the one thing we
2 would note is whatever we do do, we have to do by
3 May 16, 2005, and the last Commission meeting prior
4 to that is May 10, 2005.

5 So whatever we do I think we have to work
6 backward from there.

7 JUDGE MORAN: Yeah, and maybe even backward from
8 there because I don't want to give them this on the
9 last --

10 MR. HARVEY: There are Commission meetings in May
11 on the 3rd and 4th as well.

12 As I say, the staff is not convinced that
13 there's a whole lot to do here.

14 We have prepared a schedule on the
15 assumption that our view will not necessarily be
16 universally held. I have a copy of that. I am not
17 necessarily advocating that this be the schedule. I
18 just sort of throw it out as something that would
19 get us --

20 JUDGE MORAN: You just had some time on your
21 hands.

22 MR. HARVEY: In my copious free time, I, you

1 know, put together this schedule just because of the
2 absolute statutory deadline that we are under here.

3 JUDGE MORAN: Uh-huh. Does anybody have any
4 comments about the remedy plan issue?

5 MS. SATTER: Nothing on the remedy plan.

6 JUDGE MORAN: Okay. With that, I will direct SBC
7 to prepare a draft -- draft order language on how we
8 would address that issue for the Commission.

9 MR. TRABARIS: Your Honor, if I could ask --

10 JUDGE MORAN: Yes, you can help.

11 MR. TRABARIS: I would volunteer AT&T to work
12 with SBC on this.

13 JUDGE MORAN: Absolutely.

14 MR. TRABARIS: We will be happy to review their
15 draft, and once we reach agreement on the draft, we
16 could cosponsor with them.

17 MS. SUNDERLAND: It may be that we and AT&T don't
18 see completely eye to eye on exactly what the impact
19 of the order was on the remedy plan and remedy
20 payments prior to the 271 order, but I think we are
21 in complete agreement that it's moot.

22 MR. HARVEY: I think to the extent that those

1 discussions are taking place, staff would certainly
2 seek to be a part of them at the risk of adding
3 additional cooks to an already, you know, somewhat
4 overstrained broth, but, in any case, we would -- we
5 feel that we have an interest in that.

6 JUDGE MORAN: Absolutely.

7 MR. HARVEY: We certainly want to take part in
8 those discussions.

9 JUDGE MORAN: That makes me even happier.

10 MS. SATTER: We have looked at the appeal,
11 obviously, and on the investment requirement, we
12 believe that the Commission at this point can -- can
13 and should take additional evidence to satisfy the
14 requirement that the Court put on, that the evidence
15 was insufficient as it was presented to the Court.
16 Although we think the evidence was sufficient,
17 that's neither here nor there, but we think that the
18 Commission should have the opportunity to reconsider
19 the requirement which it clearly has the power to
20 do, and so we would like to have the opportunity to
21 present some additional evidence on the basis for
22 the amount of the investment requirement because

1 that was the problem.

2 The Court said, Commission, you have the
3 power to impose an investment requirement because
4 that had been the first argument on appeal, but on
5 this particular record, we don't see sufficient
6 evidence so we would like the opportunity on this
7 remand to offer additional evidence on that. And I
8 believe that's been done on remands in the past.

9 And on the question of timing, I notice
10 that Matt has the statute, and my understanding is
11 it's in 10-201.

12 MR. HARVEY: 201 E-4.

13 MS. SATTER: And my recollection, without looking
14 at the statute, and I think we should check it, is
15 that the Commission is directed to enter an order
16 within five or six months.

17 JUDGE MORAN: I believe it's five months.

18 MS. SATTER: Five months and then --

19 MR. HARVEY: No. It's actually six. The five is
20 I think what -- is the rehearing period.

21 The six months --

22 MS. SATTER: The Commission has the discretion to

1 an interim order at six months.

2 JUDGE MORAN: Yes.

3 MR. HARVEY: Within five months after.

4 MS. SATTER: And then within the next five or six
5 months do the final.

6 So in cases where there are remands and
7 hearings are required, often that full amount of
8 time is used. So I just want to make sure that we
9 are all on the same page that the statute does have
10 that flexibility in it.

11 MR. HARVEY: Well, I think we are on the same
12 page that there is a provision whereby the
13 Commission can with leave of Court obtain an
14 additional five months' extension.

15 I am -- as I read the statute, which --

16 JUDGE MORAN: I am sure that we have to go back
17 to the Court. I have seen that done in other remand
18 things that I have been involved in.

19 MR. HARVEY: I, frankly, don't propose to ask the
20 Commission to get leave of Court.

21 JUDGE MORAN: If we don't have to, we don't want
22 to. That's more of a safety valve than anything

1 else.

2 MS. SATTER: If we schedule a period of time for
3 hearings directly, we probably could do it in May or
4 do it by May, and I am not trying to postpone it.

5 JUDGE MORAN: But my concern is that we have to
6 frame the issue.

7 If the parties are interested in having
8 more evidence --

9 MS. SUNDERLAND: Well --

10 JUDGE MORAN: Let me finish my thought because I
11 have been thinking this through.

12 The Court said that it had -- at the time
13 that it looked at the Commission's order found that
14 there was evidence of need for investment, the
15 Commission's order had indicated that.

16 I think we have to look today as to
17 whether that need exists and then look if that need,
18 and that need being an improvement to service
19 quality, can only be addressed by network or
20 infrastructure investment.

21 Do the parties agree with me on that?
22 That's my view of the situation.

1 MR. HARVEY: As I understand the way you are
2 framing the issue, Judge, you are suggesting that,
3 first of all, the evidence taken, if any, should
4 relate to matters as they currently exist rather
5 than --

6 JUDGE MORAN: I mean, you would have to. We
7 can't go back and form an investment requirement
8 today based on need that existed -- I don't even
9 remember when this case --

10 MS. SUNDERLAND: 2000.

11 JUDGE MORAN: -- was heard.

12 MR. HARVEY: Yeah. It was early 2000.

13 JUDGE MORAN: That would be absurd. That would
14 be an absurd construction.

15 MR. HARVEY: I think staff would concur in that
16 conclusion.

17 As I further understand your framing of
18 the issue, the question of infrastructure investment
19 is one that you would propose to resolve with
20 respect to whether it is -- whether service quality
21 issues necessitate it or whether service quality
22 issues are -- can and are being resolved in some

1 other manner.

2 JUDGE MORAN: Uh-huh.

3 MR. HARVEY: Such as would obviate the need for
4 infrastructure investment.

5 JUDGE MORAN: Uh-huh. Uh-huh. That's the way I
6 see it.

7 First you have got to identify that the
8 problem still exists, and then, if it does exist, is
9 it a problem that's resolved by additional monies or
10 is it something else? You know, it's all those
11 steps. That's what I think we have to look at.

12 MS. SATTER: I have to admit I read it a little
13 bit differently. Particularly on Page 18 they say,
14 you know, we begin by noting there is some evidence
15 to support the need for the capital spending
16 requirement.

17 JUDGE MORAN: Right. And there was at that time.

18 MS. SATTER: So you are saying -- if we are going
19 to go back and look at this issue on a factual
20 basis, let's look at it today.

21 JUDGE MORAN: Exactly.

22 MS. SATTER: And I don't disagree with that.

1 MR. PACE: I would just say on behalf of the City
2 of Chicago, I would have to think about that.
3 Only -- I am just thinking out loud here because I
4 haven't considered your issue in that the original
5 order called for a five-year spending plan based on
6 the evidence at the time and we would be in the
7 third year of that spending plan.

8 So I guess what I am saying is that there
9 was a decision two years ago requiring a spending
10 plan for five years, and if we look at the evidence
11 only today, you know, I am not sure how that impacts
12 that decision.

13 Are we reviewing the plan entirely now
14 based on the evidence today?

15 All I am saying is I would have to think
16 about that issue a little bit before I could make
17 a -- take a position on it.

18 JUDGE MORAN: All right.

19 MS. SUNDERLAND: I would just sort of note that
20 we have been under the merge order spending plan
21 throughout this period in any event.

22 JUDGE MORAN: Okay.

1 MS. SUNDERLAND: So --

2 JUDGE MORAN: All right. And you know what,
3 maybe all of you can get together and discuss some
4 of these little --

5 MS. SUNDERLAND: I was going to say we are
6 opposed to reopening the record and taking
7 additional evidence.

8 JUDGE MORAN: Okay. Let me write that down.

9 MS. SUNDERLAND: We think that the Court's
10 opinion is clear that they reversed it and that's
11 consistent with 10-201 where there's insufficient
12 evidence the PUA contemplates that the Court will
13 simply reverse it and although --

14 JUDGE MORAN: Then you have to do that statutory
15 construction.

16 You have to treat this order like any
17 other law or legal document and look through the
18 case law and indicate just what this language means.
19 That's another way of doing it.

20 I am not --

21 MS. SUNDERLAND: My view is that the only reason
22 it was remanded was because it was part of a larger

1 order and they were not reversing the entire order.

2 JUDGE MORAN: I'm not saying that that argument
3 is not viable based on my reading also, but someone
4 is going to have to support it well with a proper
5 construction.

6 MS. NORRIS: Can I just chime in for McCleod USA?
7 We don't really have a position on the
8 infrastructure obligation, but before it gets too
9 late and I forget to do this, on the wholesale
10 remedy plan, we, you know, would like to participate
11 with AT&T, SBC and staff in drafting that order and
12 commenting on it.

13 JUDGE MORAN: Absolutely.

14 You know, without --

15 MS. SUNDERLAND: So we can -- if we can submit
16 agreed-upon language --

17 JUDGE MORAN: Someone can start with a draft and
18 then everyone -- we've done this before. Everyone
19 can chip in or you can work on it together in a
20 room. I don't care how you do it.

21 That is the right way to do it. That way
22 everybody is happy and -- when something can be

1 agreed upon, that's the best. That's the best-case
2 scenario.

3 MR. BRADY: Going back to the investment
4 requirement and if it's a -- a two-prong attack,
5 first is there a service quality problem still in
6 existence today is what I understood you to say.

7 Maybe I am just saying the obvious, but I
8 would think there would be a significant amount of
9 discovery trying to determine, you know, what has
10 been transpiring over the last --

11 JUDGE MORAN: Uh-huh.

12 MR. BRADY: -- whatever period of time, year or
13 two, depending on what period people think they need
14 to determine the level of service. So I just throw
15 that out as an impact on our scheduling in this
16 docket.

17 MS. SUNDERLAND: We do report our service quality
18 results on a regular basis to the Commission so this
19 is hardly a secret that our service quality has been
20 very good.

21 JUDGE MORAN: So then there is stuff --

22 MS. SUNDERLAND: They've got it.

1 JUDGE MORAN: -- easily available --

2 MS. SUNDERLAND: Yeah.

3 JUDGE MORAN: -- to look at and to be put in the

4 record. That's good.

5 MR. HARVEY: Regular filings and the price gap

6 dockets, I think, show up periodically.

7 MS. SUNDERLAND: And I think there are more

8 frequent filings with staff.

9 MR. HARVEY: Sam McClerren would have that stuff.

10 MR. BRADY: I don't dispute that we have required

11 posting.

12 I don't know the extent to which it goes

13 to satisfy experts' investigation into certain

14 standards or requirements.

15 MR. HARVEY: I think the point of this is that,

16 you know, to the extent we are going -- I think

17 staff doesn't see the need for additional hearings,

18 but if we were to hold them, I mean, you would

19 almost have to prefile testimony like today frankly

20 because this order does, without leave of Court,

21 have to issue, without question, on May 16th.

22 Nobody has petitioned for leave of Court.

1 JUDGE MORAN: Okay. We are going to stick with
2 that date.

3 I think that even if there is some sort
4 of evidence to be put in supposing that your
5 position isn't adopted -- and I am going to allow
6 you to make that position, obviously -- it seems a
7 good thing that -- and, again, I don't know all the
8 details of it, that there is evidence of service
9 quality being reported to the Commission. That
10 evidence can be stipulated to even.

11 And I am not saying -- I am just throwing
12 things out.

13 I am not saying that's the way to do it.
14 I am saying that's a possible way to do it.

15 MS. SATTER: I just wanted to add that the
16 service quality problems that were evident in the
17 underlying case were certainly a basis for the
18 investment requirement.

19 JUDGE MORAN: Right.

20 MS. SATTER: But I think they were one basis and
21 there were others, and certainly if we are looking
22 at it today, I wouldn't want to be limited in my

1 review or in arguments to service quality.

2 I think particularly when there has been
3 a merger order requirement in place that's going to
4 be removed or if that will expire, that adds
5 something to the consideration too.

6 There are other elements than simply the
7 service quality issues that were alive in -- in
8 2000 -- in 2002.

9 So I just wanted to put that on the
10 record, that I think it's a broader -- if you are
11 going to go back and look at the question of need.

12 JUDGE MORAN: It's not going back. It's looking
13 at the question of need today.

14 In fact, that's what I am trying to
15 avoid, going back because there is no way, there is
16 no way to recreate and put any of ourselves in that
17 mindset today. That would be so unreasonable.

18 MS. SATTER: If we are going to do that, then
19 let's look at the situation overall.

20 JUDGE MORAN: And I am not saying you shouldn't
21 look at all relevant factors today, but the real
22 question is the question of service quality because

1 that was the question back then and that's what the
2 Court looked at.

3 MS. LUSSON: We would agree with what Sue just
4 said.

5 If you look in the actual order about why
6 the Commission was including the \$3 billion
7 investment requirement, the first thing it mentioned
8 was to continue to encourage innovation, to ensure
9 the broad dissemination of technical improvements
10 that reaches all classes of ratepayers, maintain
11 service quality and then, fourth, serve to enhance
12 the economic development of the state.

13 JUDGE MORAN: Are you reading from the order?

14 MS. LUSSON: My copy is Page 211 which may be an
15 electronic copy.

16 MS. SUNDERLAND: You are in the original order?

17 MS. LUSSON: The original order.

18 So I think what Sue is saying, and we
19 agree, is that, if we have hearings, then I don't
20 think that whether or not there should be a specific
21 capital investment figure should be contingent on
22 whether or not there are perceived service quality

1 problems per se now, that there are other legal
2 reasons that may not even need additional evidence
3 that would justify continuing the investment
4 obligation that, you know, wouldn't necessarily
5 be --

6 JUDGE MORAN: Yeah, but legal reasons have to
7 support facts, you know.

8 You don't get somewhere by holding onto a
9 principle.

10 MS. LUSSON: True, but the --

11 JUDGE MORAN: You need on real-life stuff to go
12 with that principle.

13 MS. LUSSON: But the requirements of 13506.1
14 require the Commission in an alternative regulatory
15 plan to maintain those interests in its final order.

16 So I think, you know -- I guess what I am
17 saying is, looking at those issues wouldn't
18 necessarily require, you know, mounds of evidence.

19 You know, it's not like we are going to
20 have a mound of discovery on whether or not a
21 capital investment obligation would ensure broad
22 dissemination of technical improvement in the state,

1 for example.

2 JUDGE MORAN: Well, on that I am certainly not
3 going to make a ruling today, but my reading of this
4 is that that wasn't the focus of either this
5 Commission's ruling -- excuse me -- this
6 Commission's order or the Court's ruling.

7 The Court threw out a lot of things, but
8 you really have to pay attention to what it actually
9 said and what -- and really the scope of what it
10 focused on.

11 MS. LUSSON: I guess --

12 JUDGE MORAN: In other words, I am not sure that
13 that isn't dicta in this opinion, but, again,
14 everybody has the right to their opinion. I am not
15 ruling on that today.

16 I am just throwing out some off-the-cuff
17 ideas.

18 MR. HARVEY: And I think what we need to do here
19 today is, if there is a disagreement about how to
20 proceed and if some parties believe that the
21 additional evidence ought to be adduced, I am
22 just -- I think we need to get some concrete

1 scheduling done, and I don't see how we do any kind
2 of a contested hearing in the approximately less
3 than four months remaining to us to do that.

4 JUDGE MORAN: I think that we will probably need
5 another status. It appears that --

6 MS. SUNDERLAND: We have threshold issues.

7 JUDGE MORAN: We have threshold issues that I am
8 seeing right here from SBC and from CUB. Maybe EAG.
9 Maybe other intervenors.

10 So maybe we -- and certainly everybody
11 isn't putting their best thoughts out orally, myself
12 included.

13 So maybe we need a time -- an opportunity
14 to draft something here and discuss it in another
15 session.

16 How about that?

17 MS. SATTER: Provided we have --

18 JUDGE MORAN: But also work out a schedule that
19 can kick in if we need to.

20 How about that?

21 MS. LUSSON: That sounds good.

22 MS. SUNDERLAND: When you talk about drafting

1 something, what are you thinking of?

2 JUDGE MORAN: Well --

3 MS. SUNDERLAND: I was sort of assuming we'd have
4 an exchange of pleadings as to whether the
5 Commission -- A, whether the Commission has the
6 authority to go reopen the record and take
7 additional evidence under the terms of the opinion,
8 and, B, even if it does, whether that is something
9 that we should do here.

10 JUDGE MORAN: That's a perfect way of setting it
11 out.

12 MR. HARVEY: That's sounds reasonable.

13 JUDGE MORAN: That's a perfect way to set it out.
14 Let everybody work on that.

15 Let's pick a status a few days after that
16 which will give me time to read those things and
17 come out with a ruling and maybe even further
18 discussion with the parties on that so that you know
19 where I am coming from and maybe I have overlooked
20 something or whatever and then at the same time
21 proceed with a schedule.

22 I am going to let you guys work on that

1 schedule. Okay? Work on it today.

2 MR. TRABARIS: And, your Honor, do you have any
3 thoughts on the stipulated remedy plan language?

4 Is that something we shouldn't -- we are
5 in no hurry for obviously?

6 JUDGE MORAN: You probably can work with that
7 concurrent with this.

8 Just so that we have that language and
9 certainly it will be helpful if everybody agrees on
10 it by the time that I am proposing an order to the
11 Commission.

12 MR. HARVEY: It wouldn't seem to be a major
13 undertaking but --

14 MR. TRABARIS: I think it would be a very minor
15 undertaking, and I am thinking about the deadline
16 and where to get it to you in a certain time to
17 bring to the Commission.

18 JUDGE MORAN: Work that into the schedule. Make
19 that a line item in the schedule.

20 Okay. All right.

21 MS. SUNDERLAND: Are we going off the record
22 here?

1 JUDGE MORAN: Yeah. We are going off the record.

2 (Recess taken.)

3 JUDGE MORAN: The parties have agreed that there
4 is a scope situation here where we have to really
5 try and devine the intent of the opinion that the
6 Third District Appellate Court has given us.

7 With that, parties are going to file some
8 sort of writing in this case.

9 And the parties have agreed on dates at
10 least for this.

11 And those dates, Mr. Harvey, are?

12 MR. HARVEY: Are respectively February 1, 2005,
13 for the initial pleading, however styled, and
14 replies on February 8, 2005, with a status
15 thereafter to be held on February 14th, 2005, at
16 10:00 a.m. without further notice.

17 The parties have also agreed -- or the
18 parties that are, I guess, going to be -- to take
19 part in the drafting of the remedy plan piece of
20 this are undertaking to submit that draft language
21 agreed upon by -- on March 1, 2005.

22 JUDGE MORAN: The parties that will be involved

1 with that are SBCI and AT&T and McCleod and staff.

2 Okay. And parties generally agree there
3 is nothing to pursue, and that's why you are going
4 to propose language for the order, and there are no
5 other parties --

6 MR. HARVEY: Yeah, and --

7 JUDGE MORAN: -- that have expressed any other
8 interest.

9 MR. HARVEY: That's correct.

10 It's my understanding that the parties
11 have agreed to waive hearings on that issue and to
12 draft conforming language amongst ourselves.

13 JUDGE MORAN: Which is an excellent idea.

14 Okay. What I am just thinking is that we
15 may need to title these pleadings on the investment
16 in one standard way.

17 MS. SUNDERLAND: That would be good.

18 JUDGE MORAN: Give me some ideas.

19 MS. SUNDERLAND: Initial brief on scope of
20 remand.

21 JUDGE MORAN: Okay.

22 MR. HARVEY: Regarding infrastructure investment.

1 MS. SUNDERLAND: Yeah.

2 MS. SATTER: You can just say initial briefs on
3 remand on infrastructure.

4 MR. HARVEY: Or we could call it love savage
5 initial brief on remand, but that would probably not
6 work well.

7 MR. TRABARIS: How about brief and reply brief.

8 MS. SATTER: Brief on remand.

9 MS. SUNDERLAND: Initial briefs on remand.

10 MS. SATTER: On infrastructure requirement.

11 MR. HARVEY: Initial brief regarding scope of
12 remand.

13 MS. SATTER: Let's make it short.

14 JUDGE MORAN: Why don't we call it initial brief
15 on scope of remand.

16 MS. SUNDERLAND: Yeah, that's fine.

17 MS. SATTER: So we leave off infrastructure.

18 JUDGE MORAN: We all know it's only going to be
19 on infrastructure so there is nothing else.

20 MR. HARVEY: Okay.

21 JUDGE MORAN: And thank you all so much.

22 And we will continue this matter to

1 February 14, Valentine's Day, at 10:00 a.m.

2 MR. HARVEY: Let the record reflect that Mr. Pace
3 is bringing cookies, I think.

4 JUDGE MORAN: That's true. So ordered.

5 (Whereupon, the hearing in the
6 above matter was continued to
7 February 14, 2005, at 10:00 a.m.)

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